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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/476,951 01/03/00 WALSH

T TIVI-B175 *cm*

EXAMINER

HOBDEN, D

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 10/24/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/476,951

Applicant(s)

WALSH ET AL.

Examiner

David V. Hobden

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 5 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-16 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 24 July 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The corrected or substitute drawings were received on 25 June 2001. These drawings are acceptable.
2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### *Claim Rejections - 35 USC § 102*

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-3, 10, and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Glatz *et al.* (5,904,017).

Regarding claim 1, Glatz discloses a lighting apparatus having:

a first extruded portion **208** shaped to mount on the nose of a stair step (figure 2; column 5, lines 41-60); and,

a second extruded portion **216** coextruded with the first portion, the second portion having a material selected to have a reflectance factor greater than or equal to light gray polyvinyl chloride [most photoluminescent materials are made of a light color (i.e. white) material, and therefore, have a reflectance factor greater than or equal to light gray polyvinyl chloride] (see column 4, lines 1-13, and lines 38-40).

With regard to claim 2, where the first portion and second portion each being made of a plastic material (column 4, lines 14-19).

With regard to claim 3, where the second portion has a strip **216** positioned by the first portion to be disposed along the edge of a step **212** (figure 2, column 5, lines 54-55).

With regard to claim 10, Glatz discloses a lighting apparatus having:  
a first extruded portion **208** shaped to mount on a nose **212** of a stair step; and,  
a second reflective strip **216** coextruded with the first portion and located so as to be disposed at and visible along an edge of the step in a darkened environment without connecting the strip to a power source.

With regard to claim 14, Glatz discloses a lighting apparatus having:  
a first extruded portion **208** shaped to mount on a nose **212** of a stair step; and,  
a second extruded portion **216** coextruded with the first portion, the second portion having a material selected to have a reflectance factor sufficient to illuminate the edge of the step [most photoluminescent materials are made of a light color (i.e. white) material, and therefore, have a reflectance factor greater than or equal to light gray polyvinyl chloride] (see column 4, lines 1-13, and lines 38-40).

With regard to claim 15, the lighting apparatus of Claim 14 Glatz further discloses where the first portion and second portion each are made of a plastic material (column 4, lines 14-19).

With regard to claim 16, the lighting apparatus of Claim 14 Glatz further discloses where the second portion has a strip **114** (see figure 1) positioned by the first portion to be disposed along an edge of the step.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glatz as applied to claim 10 above, and further in view of George (6,116,748).

With regard to claims 7 and 11, Glatz discloses a lighting apparatus mountable in connection with a step of a staircase and having:

a first plastic extruded portion providing a step plate surface and a riser surface mounted at a right angle with respect to one another and dimensioned to be mounted on the nose portion of a stair step;

a second plastic light reflective strip coextruded with the first portion and

located so as to be disposed at and visible along an edge of the step in a darkened environment.

Glatz does not disclose expressly,

a lamp mounted on a portion of a seat, the seat being located adjacent to the step.

George discloses a lamp mounted on a portion of a seat, the seat being located adjacent to the step.

Glatz and George are analogous art because both provide for an illuminated walkway to prevent a person from tripping or falling on the walkway in darkened environment (Glatz: column 1, lines 4-12; George: column 1, lines 19-21, and lines 38-43).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the seat mounted lamp of George to illuminate the stair steps of Glatz's invention.

The suggestion/motivation for doing so would have been to provide a source of light to illuminate the plastic light reflective/light emitting strip of Glatz's invention. The light reflective (photoluminescent) strip of Glatz would provide for auxiliary illumination in the event of an electrical power failure, or provide for the option of reduced illumination by extinguishing the seat mounted lamps (Glatz: column 4, lines 38-40).

With regard to claims 8 and 12, George further discloses the apparatus of claims 7 and 10 where the lamp **24** includes at least one LED **46** arranged to illuminate the step **12** (column 3, lines 27-29).

With regard to claim 9 and 13, George further discloses the apparatus of claims 7 and 10 where the lamp includes a plurality of LEDs located beneath a shield **20**, the shield shaped and disposed to direct light from the plurality of LEDs onto the step (see figure 3; column 3, lines 11-30).

Therefore, it would have been obvious to combine George with Glatz to obtain the invention as specified in claims 7-9 and 11-13.

***Allowable Subject Matter***

6. Claims 4 and 5 are allowed.

With regard to claims 4 and 5, prior art does not disclose a lighting apparatus having:

a first extruded portion shaped to mount on the nose of a stair step ; and,  
a second extruded portion coextruded with the first portion, the second portion having a light gray polyvinyl chloride strip, where strip may be made of a PVC material #291 as available from A&B Plastics.

7. Claims 17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

With regard to claims 17 and 18, prior art does not disclose the lighting apparatus of Claim 16 where the strip is made of a light gray polyvinyl (chloride) strip, where the strip may be made of PVC material #291 as available from A&B Plastics.

8. Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

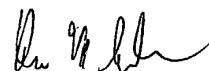
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David V. Hobden whose telephone number is 703-305-4469. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-8303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0956.

DVH  
October 18, 2001



THOMAS M. SEMBER  
PRIMARY EXAMINER